

By: Representative Perkins

To: Public Health and Human Services; Appropriations

HOUSE BILL NO. 308

1 AN ACT TO AMEND SECTION 43-15-13, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE CERTAIN RIGHTS TO RELATIVES, OTHER THAN NATURAL
3 PARENTS, WHO CARE FOR CHILDREN PLACED IN THEIR HOME BY THE
4 DEPARTMENT OF HUMAN SERVICES, INCLUDING RECEIVING REIMBURSEMENT OF
5 CHILD CARE COSTS; TO AMEND SECTION 43-15-17, MISSISSIPPI CODE OF
6 1972, TO AUTHORIZE THE DEPARTMENT OF HUMAN SERVICES TO PROVIDE
7 MONTHLY PAYMENTS TO RELATIVES, OTHER THAN NATURAL PARENTS, WHO
8 CARE FOR CHILDREN PLACED IN THEIR HOME BY THE DEPARTMENT OF HUMAN
9 SERVICES; AND FOR RELATED PURPOSES.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

11 **SECTION 1.** Section 43-15-13, Mississippi Code of 1972, is
12 amended as follows:

13 43-15-13. (1) For purposes of this section, "children"
14 means persons found within the state who are under the age of
15 twenty-one (21) years, and who were placed in the custody of the
16 Department of Human Services by the youth court of the appropriate
17 county.

18 (2) The Department of Human Services shall establish a
19 foster care placement program for children whose custody lies with
20 the department, with the following objectives:

21 (a) Protecting and promoting the health, safety and
22 welfare of children;

23 (b) Preventing the unnecessary separation of children
24 from their families by identifying family problems, assisting
25 families in resolving their problems and preventing the breakup of
26 the family where the prevention of child removal is desirable and
27 possible when the child can be cared for at home without
28 endangering the child's health and safety;

29 (c) Remedying or assisting in the solution of problems
30 which may result in the neglect, abuse, exploitation or
31 delinquency of children;

32 (d) Restoring to their families children who have been
33 removed, by the provision of services to the child and the
34 families when the child can be cared for at home without
35 endangering the child's health and safety;

36 (e) Placing children in suitable adoptive homes
37 approved by a licensed adoption agency or family protection
38 specialist, in cases where restoration to the biological family is
39 not safe, possible or appropriate;

40 (f) Assuring safe and adequate care of children away
41 from their homes, in cases where the child cannot be returned home
42 or cannot be placed for adoption. At the time of placement, the
43 department shall implement concurrent planning, as described in
44 subsection (8) of this section, so that permanency may occur at
45 the earliest opportunity. Consideration of possible failure or
46 delay of reunification should be given, to the end that the
47 placement made is the best available placement to provide
48 permanency for the child; and

49 (g) Providing a family protection specialist or worker
50 or team of such specialists or workers for a family and child
51 throughout the implementation of their permanent living
52 arrangement plan. Wherever feasible, the same family protection
53 specialist or worker or team shall remain on the case until the
54 child is no longer under the jurisdiction of the youth court.

55 (3) The State Department of Human Services shall administer
56 a system of individualized plans and reviews once every six (6)
57 months for each child under its custody within the State of
58 Mississippi, each child who has been adjudged a neglected,
59 abandoned or abused child and whose custody was changed by court
60 order as a result of such adjudication, and each public or private
61 facility licensed by the department. The State Department of

62 Human Services administrative review shall be completed on each
63 child within the first three (3) months and a foster care review
64 once every six (6) months after the child's initial
65 forty-eight-hour shelter hearing. Such system shall be for the
66 purpose of enhancing potential family life for the child by the
67 development of individual plans to return the child to its natural
68 parent or parents, or to refer the child to the appropriate court
69 for termination of parental rights and placement in a permanent
70 relative's home, adoptive home or foster/adoptive home. The goal
71 of the State Department of Human Services shall be to return the
72 child to its natural parent(s) or refer the child to the
73 appropriate court for termination of parental rights and placement
74 in a permanent relative's home, adoptive home or foster/adoptive
75 home within the time periods specified in this subsection or in
76 subsection (4) of this section. In furthering this goal, the
77 department shall establish policy and procedures designed to
78 appropriately place children in permanent homes, such policy to
79 include a system of reviews for all children in foster care, as
80 follows: foster care counselors in the department shall make all
81 possible contact with the child's natural parent(s) and any
82 interested relative for the first two (2) months following the
83 child's entry into the foster care system. For any child who was
84 in foster care before July 1, 1998, and has been in foster care
85 for fifteen (15) of the last twenty-two (22) months regardless of
86 whether the foster care was continuous for all of those twenty-two
87 (22) months, the department shall file a petition to terminate the
88 parental rights of the child's parents. The time period starts to
89 run from the date the court makes a finding of abuse and/or
90 neglect or sixty (60) days from when the child was removed from
91 his or her home, whichever is earlier. The department can choose
92 not to file a termination of parental rights petition if the
93 following apply:

94 (a) The child is being cared for by a relative; and/or

95 (b) The department has documented compelling and
96 extraordinary reasons why termination of parental rights would not
97 be in the best interests of the child. Prior to granting or
98 denying a request by the department for an extension of time for
99 filing a termination of parental rights action, the court shall
100 receive a written report on the progress which a parent of such
101 child has made in treatment, to be made to the court in writing by
102 a mental health/substance abuse therapist or counselor.

103 (4) In the case of any child who is placed in foster care on
104 or after July 1, 1998, except in cases of aggravated circumstances
105 prescribed in Section 43-21-603(7)(c) or (d), the child's natural
106 parent(s) will have a reasonable time to be determined by the
107 court, which shall not exceed a six-month period of time, in which
108 to meet the service agreement with the department for the benefit
109 of the child unless the department has documented extraordinary
110 and compelling reasons for extending the time period in the best
111 interest of the child. If this agreement has not been
112 satisfactorily met, simultaneously the child will be referred to
113 the appropriate court for termination of parental rights and
114 placement in a permanent relative's home, adoptive home or a
115 foster/adoptive home. For children under the age of three (3)
116 years, termination of parental rights shall be initiated within
117 six (6) months, unless the department has documented compelling
118 and extraordinary circumstances, and placement in a permanent
119 relative's home, adoptive home or foster/adoptive home within two
120 (2) months. For children who have been abandoned pursuant to the
121 provisions of Section 97-5-1, termination of parental rights shall
122 be initiated within thirty (30) days and placement in an adoptive
123 home shall be initiated without necessity for placement in a
124 foster home. The department need not initiate termination of
125 parental rights proceedings where the child has been placed in
126 durable legal custody or long-term or formalized foster care by a
127 court of competent jurisdiction.

128 (5) The foster care review once every six (6) months shall
129 be conducted by the youth court or its designee(s), and/or by
130 personnel within the State Department of Human Services or by a
131 designee or designees of the department and may include others
132 appointed by the department, and the review shall include at a
133 minimum an evaluation of the child based on the following:

134 (a) The extent of the care and support provided by the
135 parents or parent, while the child is in temporary custody;

136 (b) The extent of communication with the child by
137 parents, parent or guardian;

138 (c) The degree of compliance by the agency and the
139 parents with the social service plan established;

140 (d) The methods of achieving the goal and the plan
141 establishing a permanent home for the child;

142 (e) Social services offered and/or utilized to
143 facilitate plans for establishing a permanent home for the child;
144 and

145 (f) Relevant testimony and recommendations from the
146 foster parent of the child, the grandparents of the child, the
147 guardian ad litem of the child, representatives of any private
148 care agency which has cared for the child, the family protection
149 worker or family protection specialist assigned to the case, and
150 any other relevant testimony pertaining to the case.

151 Each child's review plan once every six (6) months shall be
152 filed with the court which awarded custody and shall be made
153 available to natural parents or foster parents upon approval of
154 the court. The court shall make a finding as to the degree of
155 compliance by the agency and the parent(s) with the child's social
156 service plan. The court also shall find that the child's health
157 and safety are the paramount concern. In the interest of the
158 child, the court shall, where appropriate, initiate proceedings on
159 its own motion. The State Department of Human Services shall
160 report to the Legislature as to the number of such children, the

161 findings of the foster care review board and relevant statistical
162 information in foster care in a semiannual report to the
163 Legislature to be submitted to the Joint Oversight Committee of
164 the Department of Human Services. The report shall not refer to
165 the specific name of any child in foster care.

166 (6) The State Department of Human Services, with the
167 cooperation and assistance of the State Department of Health,
168 shall develop and implement a training program for foster care
169 parents to indoctrinate them as to their proper responsibilities
170 upon a child's entry into their foster care. The program shall
171 provide a minimum of twelve (12) clock hours of training. The
172 foster care training program shall be satisfactorily completed by
173 such foster care parents prior to or within ninety (90) days after
174 child placement with such parent. Record of such foster care
175 parent's training program participation shall be filed with the
176 court as part of a foster care child's review plan once every six
177 (6) months.

178 (7) When the Department of Human Services is considering
179 placement of a child in a foster home and when the department
180 deems it to be in the best interest of the child, the department
181 shall give first priority to placing the child in the home of one
182 (1) of the child's relatives within the third degree, as computed
183 by the civil law rule. In placing the child in a relative's home,
184 the department may waive the rule, regulation or policy applicable
185 to placement in foster care that would * * * require the child to
186 have a separate bed or bedroom or have a bedroom of a certain
187 size, if placing the child in a relative's home would be in the
188 best interest of the child and such requirements cannot be met in
189 the relative's home.

190 (8) The Legislature recognizes that the best interests of
191 the child require that the child be placed in the most permanent
192 living arrangement as soon as is practicably possible. To achieve
193 this goal, the Department of Human Services is directed to conduct

194 concurrent planning so that a permanent living arrangement may
195 occur at the earliest opportunity. Permanent living arrangements
196 may include prevention of placement of a child outside the home of
197 the family when the child can be cared for at home without
198 endangering the child's health or safety; reunification with the
199 family, when safe and appropriate, if temporary placement is
200 necessary; or movement of the child toward the most permanent
201 living arrangement and permanent legal status. When a child is
202 placed in foster care or relative care, the department shall first
203 ensure and document that reasonable efforts were made to prevent
204 or eliminate the need to remove the child from the child's home.
205 The department's first priority shall be to make reasonable
206 efforts to reunify the family when temporary placement of the
207 child occurs or shall request a finding from the court that
208 reasonable efforts are not appropriate or have been unsuccessful.
209 A decision to place a child in foster care or relative care shall
210 be made with consideration of the child's health, safety and best
211 interests. At the time of placement, consideration should also be
212 given so that if reunification fails or is delayed, the placement
213 made is the best available placement to provide a permanent living
214 arrangement for the child. The department shall adopt rules
215 addressing concurrent planning for reunification and a permanent
216 living arrangement. The department shall consider the following
217 factors when determining appropriateness of concurrent planning:
218 (a) The likelihood of prompt reunification;
219 (b) The past history of the family;
220 (c) The barriers to reunification being addressed by
221 the family;
222 (d) The level of cooperation of the family;
223 (e) The foster parents' willingness to work with the
224 family to reunite;

225 (f) The willingness and ability of the foster family or
226 relative placement to provide an adoptive home or long-term
227 placement;

228 (g) The age of the child; and

229 (h) Placement of siblings.

230 (9) If the department has placed a child in foster care or
231 relative care pursuant to a court order, the department may not
232 change the child's placement unless the department specifically
233 documents to the court that the current placement is unsafe or
234 unsuitable or that another placement is in the child's best
235 interests unless the new placement is in an adoptive home or other
236 permanent placement. Except in emergency circumstances as
237 determined by the department or where the court orders placement
238 of the child pursuant to Section 43-21-303, the foster parents,
239 grandparents or other relatives of the child shall be given an
240 opportunity to contest the specific reasons documented by the
241 department at least seventy-two (72) hours prior to any such
242 departure, and the court may conduct a review of such placement
243 unless the new placement is in an adoptive home or other permanent
244 placement. When a child is returned to foster care or relative
245 care, the former foster parents or relative placement shall be
246 given the prior right of return placement in order to eliminate
247 additional trauma to the child.

248 (10) The Department of Human Services shall provide the
249 foster parents, grandparents or other relatives with at least a
250 seventy-two-hour notice of departure for any child placed in their
251 foster care or relative care, except in emergency circumstances as
252 determined by the department or where the court orders placement
253 of the child pursuant to Section 43-21-303. The parent/legal
254 guardian, grandparents of the child, guardian ad litem and the
255 court exercising jurisdiction shall be notified in writing when
256 the child leaves foster care or relative care placement,
257 regardless of whether the child's departure was planned or

258 unplanned. The only exceptions to giving a written notice to the
259 parent(s) are when a parent has voluntarily released the child for
260 adoption or the parent's legal rights to the child have been
261 terminated through the appropriate court with jurisdiction.

262 (11) The Department of Human Services shall extend the
263 following rights to persons who provide foster care and to
264 relative care:

265 (a) A clear understanding of their role while providing
266 care and the roles of the birth parent(s) and the placement agency
267 in respect to the child in care;

268 (b) Respect, consideration, trust and value as a family
269 who is making an important contribution to the agency's
270 objectives;

271 (c) Involvement in all the agency's crucial decisions
272 regarding the * * * child as team members who have pertinent
273 information based on their day-to-day knowledge of the child in
274 care;

275 (d) Support from the family protection worker or the
276 family protection specialist in efforts to do a better day-to-day
277 job in caring for the child and in working to achieve the agency's
278 objectives for the child and the birth family through provision
279 of:

280 (i) Pertinent information about the child and the
281 birth family.

282 (ii) Help in using appropriate resources to meet
283 the child's needs.

284 (iii) Direct interviews between the family
285 protection worker or specialist and the child, previously
286 discussed and understood by the foster parents;

287 (e) The opportunity to develop confidence in making
288 day-to-day decisions in regard to the child;

289 (f) The opportunity to learn and grow in their vocation
290 through planned * * * education in caring for the child;

291 (g) The opportunity to be heard regarding agency
292 practices that they may question; and

293 (h) Reimbursement for costs of the * * * child's care
294 in the form of a board payment based on the age of the * * * child
295 as prescribed in Section 43-15-17.

296 (12) The Department of Human Services shall require the
297 following responsibilities from participating persons who provide
298 foster care and relative care:

299 (a) Understanding the department's function in regard
300 to the foster care program and related social service programs;

301 (b) Sharing with the department any information which
302 may contribute to the care of * * * children;

303 (c) Functioning within the established goals and
304 objectives to improve the general welfare of the * * * child;

305 (d) Recognizing the problems in * * * home placement
306 that will require professional advice and assistance and that such
307 help should be utilized to its full potential;

308 (e) Recognizing that the * * * family who cares for the
309 child will be one of the primary resources for preparing a child
310 for any future plans that are made, including return to birth
311 parent(s), termination of parental rights or
312 reinstitutionalization;

313 (f) Expressing their view of agency practices which
314 relate to the * * * child with the appropriate staff member;

315 (g) Understanding that all information shared with the
316 persons who provide foster care or relative care about the child
317 and his/her birth parent(s) must be held in the strictest of
318 confidence;

319 (h) Cooperating with any plan to reunite the * * *
320 child with his birth family and work with the birth family to
321 achieve this goal; and

322 (i) Attending dispositional review hearings and
323 termination of parental rights hearings conducted by a court of

324 competent jurisdiction, or providing their recommendations to the
325 court in writing.

326 **SECTION 2.** Section 43-15-17, Mississippi Code of 1972, is
327 amended as follows:

328 43-15-17. (1) The State Department of Human Services is
329 authorized to make such payments as may be appropriate for
330 supportive services to facilitate either the return of children to
331 their natural parents or their adoption, depending upon and
332 contingent upon the availability of the State Department of Human
333 Services' securing or having sufficient funds to render this
334 supportive service. Upon court order, the parent(s) shall be
335 responsible for reimbursing the department for any foster care or
336 relative care payments made on behalf of his or her child, based
337 upon financial ability to pay, until such time as there is a
338 termination of parental rights regarding the child, or the child
339 is adopted.

340 (2) For those children placed in foster care or relative
341 care by the state or county departments of human services, the
342 department shall make monthly payments for the support of these
343 children's room and board, clothing, allowance and personal needs.
344 From and after July 1, 1998, and subject to the availability of
345 funds specifically appropriated therefor, the Department of Human
346 Services' foster care and therapeutic care monthly payment
347 schedule in effect prior to that date shall be increased by One
348 Hundred Dollars (\$100.00) per month, with said minimum payment not
349 to preclude the department from increasing payments in subsequent
350 years as funds become available. From and after July 1, 1998, in
351 order for persons providing foster care or relative care to
352 receive such monthly payments authorized under this subsection
353 (2), the Department of Human Services shall require foster care
354 placements to be licensed as foster care homes and shall require
355 prospective persons who will provide foster care or relative care
356 to satisfactorily complete an appropriate training program which

357 emphasizes the goal of the foster care program or the placement of
358 a child with a relative to provide stable * * * placement until a
359 permanent outcome is achieved.

360 **SECTION 3.** This act shall take effect and be in force from
361 and after July 1, 2007.